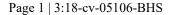
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4	UNITED STATES	S DISTRICT COURT
5	WESTERN DISTRIC	CT OF WASHINGTON ACOMA
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7	MADELEINE GARZA, an individual,	No. 3:18-cv-05106-BHS
8	Plaintiff,	PLAINTIFF'S SUPPLEMENTAL
9	VS.	JURY INSTRUCTION
10	NATIONAL RAILROAD PASSENGER CORPORATION d/b/a AMTRAK,	
1112	Defendant.	
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PLAINTIFF'S SUPPLEMENTAL JURY INSTRUCTION

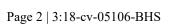




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Plaintiff respectfully submits the following proposed supplemental jury instruction.
This revised damages instruction reflects changes in the case including the removal of
Plaintiff's economic damages claim. A revised verdict form follows the revised damages
instruction. Further, upon review of applicable caselaw, the revised damages instruction also
includes as part of Plaintiff's general damages a claim for the fear of present and future health
problems, including the reasonable fear of an increased risk of injury. See Wilson v. Key Tronic
Corp., 40 Wash. App. 802, 810, 701 P.2d 518, 524 (1985); Sorenson v. Raymark Indus., Inc.,
51 Wash. App. 954, 958, 756 P.2d 740, 742 (1988).

PLAINTIFF'S SUPPLEMENTAL JURY INSTRUCTION





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PLAINTIFF'S PROPOSED SUPPLEMENTAL JURY INSTRUCTION NO.

Damages

It is the duty of the Court to instruct you as to the measure of damages. You must determine the amount of money that will reasonably and fairly compensate Plaintiff for such damages. Amtrak has admitted that it is liable for all damages caused by the derailment. In determining the measure of damages, you should consider the following:

- **(1)** The nature and extent of the injuries;
- The disability, disfigurement, and loss of enjoyment of life experienced and that (2) with reasonable probability will be experienced in the future;
- (3) The pain and suffering, both mental and physical, mental anguish, emotional distress, and inconvenience experienced and that with reasonable probability will be experienced in the future;
- **(4)** The fear of present and future health problems, including the reasonable fear of an increased risk of injury.

The burden of proving damages rests upon the Plaintiff. It is for you to determine, based upon the evidence, whether any particular element has been proved by a preponderance of the evidence.

Your award must be based upon evidence and not upon speculation, guesswork or conjecture.

The law has not furnished us with any fixed standards by which to measure noneconomic damages. With references to these matters you must be governed by your own judgment, by the evidence in the case, and by these instructions.

1	9th Cir. Model Civil Jury Instruction Nos. 5.1; 5.2 (Modified); Wilson v. Key Tronic Corp., 40
2	Wash. App. 802, 810, 701 P.2d 518, 524 (1985); Sorenson v. Raymark Indus., Inc., 51 Wash.
3	App. 954, 958, 756 P.2d 740, 742 (1988).
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	PLAINTIFF'S SUPPLEMENTAL JURY INSTRUCTION PLAINTIFF'S SUPPLEMENTAL JURY A Professional Limited Liability Company



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4		DIGEDICE COLUDE				
5		DISTRICT COURT T OF WASHINGTON				
6	AT TACOMA					
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8	MADELEINE GARZA, an individual,					
9	WADELEINE GARZA, ali liidividual,					
10	Plaintiff,					
11		NO. 3:18-cv-05106-BHS				
12	VS.					
13						
14 15	NATIONAL RAILROAD PASSENGER CORPORATION d/b/a AMTRAK,	PLAINTIFF'S PROPOSED VERDICT FORM				
16 17 18	Defendant.					
19	We, the jury, answer the questions subr	nitted by the court as follows:				
20	we, the jury, answer the questions such	initiod by the court as follows.				
21	What do you find to be Madeleine Garza's damages:					
22	Past and Future Non-Economic Damages \$					
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PLAINTIFF'S SUPPLEMENTAL JURY INSTRUCTION



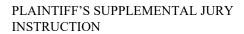
Date Presiding Juror	DIR	ECTION: Sign this verdict for	rm and not	ify the baili	ff.	
Date						
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PLAINTIFF'S SUPPLEMENTAL JURY INSTRUCTION



PFAU COCHRAN VERTETIS AMALA A Professional Limited Liability Company

CERTIFICATE OF SERVICE 1 2 I, Sarah Awes, hereby declare under penalty of perjury under the laws of the State of Washington that that I am employed at Pfau Cochran Vertetis Amala, PLLC, and that on the 3 below date I caused to be served the foregoing document on: 4 5 Tim Wackerbarth Andrew Yates 6 Warren Babb Lane Powell, PC 7 1420 Fifth Ave. Ste. 4200 PO Box 91302 8 Seattle, WA 98111-9402 9 Attorneys for Defendant 10 Mark S. Landman, Pro Hac Vice John A. Bonventre, Pro Hac Vice 11 Landman Corsi Ballaine & Ford, PC 120 Broadway, 13th Floor 12 New York, NY 10271 13 Attorneys for Defendant 14 Kim Putnam Kathryn N. Potvin 15 Dustin Dailey Putnam Lieb Potvin 16 907 Legion Way SE Olympia, WA 98501 17 Attorneys for Plaintiff 18 19 () Via U.S. Mail 20 () Via Facsimile 21 (X) ECF () Via Email 22 23 24 25





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PLAINTIFF'S SUPPLEMENTAL JURY INSTRUCTION

